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TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. ~~427.~~ 212

THE UNITED STATES, APPELLANTS,

vs.

CHARLES F. HOLBROOK.

APPEAL FROM THE COURT OF CLAIMS.

FILED DECEMBER 19, 1870.

SUPREME COURT OF THE UNITED STATES.

No. 427.

THE UNITED STATES, APPELLANTS,

vs.

CHARLES F. HOLBROOK.

APPEAL FROM THE COURT OF CLAIMS.

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1 In the United States Court of Claims.

CHARLES F. HOLBROOK
vs.
THE UNITED STATES. } No. 3776.

To the honorable the Court of Claims of the United States:

The petition of Charles F. Holbrook, respectfully represents: That he is a citizen of the city of Washington, in the District of Columbia; that, from the thirtieth day of June, A. D. 1866, to the thirtieth day of June, A. D. 1867, he was employed by the defendants as a watchman in that part of the public grounds belonging to the United States known as the Capitol grounds, in the city of Washington aforesaid; that he was duly appointed said watchman by the Commissioner of Public Buildings, in conformity with law; that his salary, regularly fixed by law, for the fiscal year ending June thirtieth, A. D. 1867, was eleven hundred and fifty dollars; that the same sum was regularly paid to him by the Commissioner of Public Buildings.

Your petitioner states that the Congress of the United States did, at the second session of the Thirty-ninth Congress, pass a joint resolution giving additional compensation to certain employées in the civil service of the United States, which joint resolution was approved and signed by the President of the United States on the 28th day of February, A. D. 1867, and is in the following words, to wit:

2 And your petitioner further avers that, by the terms of said resolution, the United States agreed to pay to your petitioner the additional sum of twenty per centum on his aforesaid salary as fixed by law aforesaid, amounting to two hundred and thirty dollars; that he has made application to the proper officer of the Treasury Department having power to decide upon his application, to wit, the First Comptroller thereof, for payment of said twenty per cent. on said salary, and that payment was by him refused. That the decision of the said Comptroller is in the following words to wit:

"TREASURY DEPARTMENT,
"COMPTROLLER'S OFFICE,
"*April 23rd* 1867.

"SIR: I have examined the questions presented by you in relation to the claim of twenty per cent. additional compensation made by sundry persons formerly under the Commissioner of Public Buildings, and have come to the conclusion that the persons named are not within the provisions of the joint resolution of February 28th, 1867.

(Signed) "R. W. TAYLOR,
"*Comptroller.*

"Major B. B. FRENCH,
"*Washington.*"

Your petitioner further avers that he has at all times borne true and faithful allegiance to the Government of the United States, and that he has not in any way or manner voluntarily aided, abetted, or given encouragement to rebellion against it. That he is the sole owner of this claim, and that no other person has any interest therein.

3 Your petitioner therefore prays judgment against the United States on account of the matters and things hereinbefore set forth, for the sum of two hundred and thirty dollars, the amount of twenty

per centum on his salary, from the thirtieth day of June, A. D. 1866, to the thirtieth day of June, A. D. 1867, together with the costs of this action.

J. DANIELS,
Att'y for Claimant, Washington, D. C.

DISTRICT OF COLUMBIA,
County of Washington, ss:

Joseph Daniels, of said county, being duly sworn, deposes and says: that he is the attorney for the claimant in the foregoing entitled action; that no assignment or transfer of said claim, or any part thereof, or any interest therein, has been made, except as in said petition stated; that said claimant is justly entitled to the amount claimed from the United States, after deducting all just credits and offsets; and further, deponent says that he believes the facts as set forth in said petition are true.

JOSEPH DANIELS.

Sworn to and subscribed before me this 13th day of Nov., 1868.
[L. S.] THO'S J. MYERS,
Notary Public.

(Indorsed:) 3776. Charles F. Holbrook vs. The United States.

4 In the Court of Claims of the United States.

CHA'S F. HOLBROOK
vs.
THE UNITED STATES. } No. 3776.

Special plea for defendants.

And the said defendants, by their Attorney General, now come, and, by leave of court, (as expressed in Rule IX,) say that the said claimant, ought not further to maintain said action, because—

1. While the claim presented in this petition is such as is ordinarily settled in an Executive Department, the petition does not set forth the decision thereon of the proper Department of the Government to which application was (as is alleged) made for the payment of the claim. (Rule II.)

2. The petition does not set forth a full statement of the action, on the claim therein presented, by a Department of the Government, as required by section 1 of the act of February 4, 1855.

3. The evidence in the case does not show that any such application has ever been made to any Department of the Government, whether with or without success, or any action whatever thereon, without which action this court has no lawful jurisdiction in this case.

And the said defendants pray judgment, &c.

THOMAS H. TALBOT,
Assistant Attorney General.

5 In the Court of Claims.

CHARLES F. HOLBROOK
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And now, to wit, 23d of May, A. D. 1870, the court, upon due con-

sideration of the premises, find in favor of the claimant, and do order, adjudge, and decree that the said Charles F. Holbrook have, and recover of and from the United States the sum of two hundred dollars no cents ($200 00.)

By the court:

A true copy of record.

6 Court of Claims, Dec. term, 1869.

CHARLES F. HOLBROOK
vs. } 3776.
THE UNITED STATES.

The defendants, by their Attorney General, come and ask the court for the allowance of an appeal to the Supreme Court of the United States on the ground that the judgment will affect a class of cases.

THOMAS H. TALBOT,
Ass't Att'y Gen'l.

Filed in the clerk's office, Aug. 17, 1870.

AT CHAMBERS.

Ordered, That the appeal as prayed in this case be allowed.
Sept. 26, 1870.

JOSEPH CASEY,
Ch. Justice.

7 In the Court of Claims of the U. S., December term, 1869.

I, Edw'd G. Loring, presiding judge of the Court of Claims, do hereby certify that the judgment rendered in the case of Charles F. Holbrook vs. The United States, on the 23d day of May, 1870, affects a class of cases, and furnishes a precedent for the future action of an Executive Department in the adjustment of such class of cases.

EDW. G. LORING.

8 In the United States Court of Claims.

CHA'S F. HOLBROOK
vs. } No. 3776.
THE UNITED STATES.

The finding of facts and the conclusions of law on said facts on which the court founded its opinion.

This cause coming on to be heard the 23d day of May, 1870, before all of the judges of the Court of Claims, the said court finds as matters of fact—

That the claimant was an employé in the office of the Commissioner of Public Buildings, as watchman at stables, and was in office from the 30th day of June, 1866, until the 30th day of June, 1867, at a salary of $1,000 per year.

That application was made to the First Comptroller of the Treasury to be allowed the additional compensation of 20 per centum on his sal-

ary, under the joint resolution of Congress approved February 28th, 1867, and that such compensation was refused.

That he was loyal to the Government of the United States, and that he took the oath of allegiance commonly called the test oath.

9 The claimant was not employed within the [four walls of the] office of the Commissioner of Public Buidings.

By the court.

The defendants also requested the court to make the following findings, which request was refused:

Charles F. Holbrook was watchman at public stables, south of Capitol, on June 30th, 1866, and continued so until March 4th, 1867, (see testimony of B. B. French,) at the rate of $1,000 per year. (See 14 St. L., 206, 456.)

On March 2ond, 1867, the office of Commissioner of Public Buildings was abolished. (14 St. Large, 466.)

The claimant never made application for the settlement and payment of his claim, either before or during this litigation, to any Department of the Government in which such claims are ordinarily settled.

(Indorsed:) 3776. Charles F. Holbrook vs. The United States.

10 In the Court of Claims.

CHARLES F. HOLBROOK } No. 3776.
vs.
THE UNITED STATES.

I, John Randolph, assistant clerk of the Court of Claims, do hereby certify that the foregoing are true transcripts of the pleadings in the above-entitled cause, and the final judgment of the court thereon; of the application of the Att'y General for defendants, for the allowance of an appeal, as filed in the clerk's office, Aug. 17, 1870, and of the order of Chief Justice Casey allowing the same; of the certificate of the presiding judge; of the findings of fact upon which the court founded its judgment, and of the requested findings by the defendants, which request was denied by the court.

In testimony whereof I have hereunto set my hand and affixed the seal of said court at Washington, this 17th day of December, 1870.

[SEAL.] JOHN RANDOLPH,
Ass't Clerk Court of Claims.

(Indorsement on cover:) No. 427. The United States, appellants, vs. Charles F. Holbrook. Court of Claims. Filed 19th December, 1870.